

Docket No.: 2038-323

PATENT

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of	:	:	EXPEDITED PROCEDURE
Takaaki SHIMADA et al.	:	:	Response under 37 CFR 1.116
	:	:	
Serial No. 10/764,589	:	:	Group Art Unit: 3761
	:	:	
Filed: July 6, 2007	:	:	Examiner: Melanie Jo Hand
	:	:	

For: PANTS-TYPE DISPOSABLE WEARING ARTICLE

PETITION UNDER 37 CFR 1.181

COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria VA 22313-1450

Sir:

Applicants hereby petition the Technology Center Director

- (i) to enter the after-final Amendment dated June 14, 2007 for purposes of appeal, and
- (ii) to instruct Examiner Hand to refrain from improperly denying entry of after-final Amendments that raise no new issues and require no further search.

The following reasons are offered for this request:

REASONS

1. In Examiner Hand's advisory action mailed July 6, 2007, Examiner Hand erroneously denied entry of the June 14, 2007 Amendment which only cancels claims 1-3, 7-10 and 17 and presents claims 4, 11, 13 and 18 in independent form, without changing the scope of any claim.

2. Contrary to Examiner Hand's allegation,¹ rewritten claim 4 does not include claims 2-3.² Rewritten claim 4 consists only of the limitations of previously presented claims 1 and 4. Rewritten claim 4 does not change the scope of any of claims 5-6 and 22 depending therefrom, requires no further search, and raises no new issue.

3. Examiner Hand's statement³ regarding claims 11, 13 and 18 as requiring further consideration even though the claims remain unchanged in scope is wrong on its face.

4. Contrary to Examiner Hand's allegation,⁴ claims 21-22 are not new and have been considered by Examiner Hand in her Final Office Action of March 14, 2007.

5. Examiner Hand's allegation⁵ that the June 14, 2007 Amendment does not place the application in better condition for appeal is also wrong, because the June 14, 2007 Amendment not only places the claims on appeal, i.e., claims 4-6, 11-16, and 18-22,⁶ in better form, but also simplifies the issues for appeal by canceling claims 1-3, 7-10 and 17.

¹ See the July 6, 2007 Advisory Action, continuation page, line 1.

² Compare, for example, claims 2-3 as presented in the last entered December 11, 2006 Amendment at page 3 with rewritten claim 4 as presented in the June 14, 2007 Amendment.

³ See the July 6, 2007 Advisory Action, continuation page, lines 3-7.

⁴ See the July 6, 2007 Advisory Action, continuation page, line 8.

⁵ See the July 6, 2007 Advisory Action, continuation page, lines 1-8 from bottom.

⁶ See the July 13, 2007 Notice of Appeal where claims 4-6, 11-16 and 18-22 are indicated as the claims on appeal.

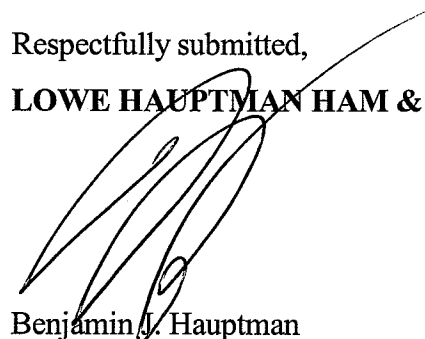
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6. This petition is timely filed within two months from the mailing date ⁷ of the Advisory Action from which relief is requested.

7. It is believed that no fee is required for consideration of this paper. Should the Office deem otherwise, please charge any shortage in fees due in connection with the filing of this paper to Deposit Account 07-1337 and please credit any excess fees to such deposit account.

Respectfully submitted,

LOWE HAUPTMAN HAM & BERNER, LLP

A handwritten signature in black ink, appearing to read 'Benjamin J. Hauptman', is written over the firm name.

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Date: September 6, 2007
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⁷ July 6, 2007